

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2412 OF 2004

IN

SUIT NO.1006 OF 2002

Shri.Siddharth D.Furia.

... Plaintiff.

vs.

Smt.S.D.Kacchara & Another.

... Defendants.

Mr.L.H.Patil, for Plaintiff.

Mr.S.C.Poojary, for Defendant no.1.

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Mr.J.S.Kini, for Defendant no.2.

CORAM: D.K.DESHMUKH,J.

DATED: 17th June,2005

P.C.:-

1. This is a notice of motion taken out by defendant no.2 seeking modification in the order dated 30.7.2004. By that order, the plaintiff and defendant no.1 have been permitted to bid for being appointed as an agent of the receiver. The defendant no.2 has not been permitted to bid because he did

not appear at the time of hearing of notice of motion no.1713 of 2003. The reason that has been given by the defendant no.2 for not appearing in the Court is incapable of being accepted. The defendant no.2 is blaming one Advocate Mr.Joshi. According to defendant no.2, he had paid Rs.50,000/- to Advocate Mr.Joshi and the said Advocate promised to file vakalatnama on his behalf, but he did not do so. Strangely, after finding out that Mr.Joshi, Advocate has not filed Vakalatnama as a result of which the defendant no.2 was unrepresented before the Court, the defendant no.2 has neither issued notice to Mr.Joshi, Advocate nor has served copy of this Notice of Motion on Mr.Joshi, Advocate. In the absence of Mr.Joshi, Advocate, the allegations of serious nature which are made against Mr.Joshi, Advocate, cannot be accepted. Thus, there is no explanation why the defendant no.2 remained absent before the Court when Notice of Motion no.1713 of 2003 was decided and therefore, there is no reason to modify the order dt.30.7.2004. Hence, the Notice of Motion is disposed of.
